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HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO:30340 of 1997

DATED: 30-03-2007

Between:

1. State of A.P., rep.by its Secretary, I & CAD Department, Secretariat, Hyderabad and 3 others.

..... PETITIONERS

AND

1. Sri K.Anjaiah and another.

.....RESPONDENTS

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ORDER:

Aggrieved by the award of the Industrial Tribunal-cum-Labour Court, Godavarikhani, in I.D.No.76 of 1995 dated 19-04-1997, the present writ petition is filed.

The first respondent had earlier filed R.P.No.473 of 1985 before the A.P. Administrative Tribunal contending that he was entitled to remain in service until he attained the age of 60 years by treating his date of birth as 14-10-1930 instead of 02-10-1928 as entered in the records. The Administrative Tribunal, by order dated

17-04-1986, disbelieved the first respondent's contention that he was not aware of the date of birth as entered in his service book and, finding no merit in his representation petition, dismissed R.P.No.473 of 1985. Subsequent thereto, the first respondent herein filed I.D.No.204 of 1988 before the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, under Section 2-A (2) of the Industrial Disputes Act seeking reinstatement with retrospective effect from 31-10-1986 and for back wages and other attendant benefits. After notice was served on the petitioners herein a counter affidavit was filed by them denying the allegations. The first respondent, while receiving a copy of the counter, endorsed thereupon that his petition may be dismissed, that nobody had pressurized him to make such endorsement and that he had voluntarily made such an endorsement. The Additional Industrial Tribunal, in view of the said endorsement, found no reason to pass an award directing his reinstatement into service and accordingly I.D.No.204 of 1988 was dismissed and it was held that the first respondent herein was not entitled for any relief against the petitioners herein. Suppressing these two orders the first respondent filed I.D.No.76 of 1995 before the Industrial Tribunal-cum-Labour Court, Godavarikhani, wherein he sought reinstatement into service both on the ground that his date of birth, as entered in the service records, was erroneous and that, as per G.O.Ms.No.487 dated 01-12-1987, he, as a work charge employee, was entitled to

continue in service till he reached the age of 60 years which was the age of superannuation for work charged employees. The Industrial Tribunal, while holding that the evidence placed by the first respondent herein before the Tribunal was not sufficient to hold that his date of birth was not 01-10-1928, however, held that in view of G.O.Ms.No.487 dated 01-12-1987 the first respondent herein was entitled to continue in service beyond 30-10-1986 for another two years till he retired from service on 30-10-1988. Consequently, an award was passed reinstating the first respondent herein into service with continuity of service and attendant benefits and with back wages taking his date of birth as 01-10-1928 till he reached the age of superannuation of 60 years on 30-10-1988. While the workman examined himself, and marked Exs.W-1 to W-12 before the Industrial Tribunal, the petitioners herein did not adduce any evidence, either oral or documentary.

The only contention raised before this Court by the learned Government Pleader is that the first respondent herein had suppressed the fact of his having earlier filed an RP before the Administrative Tribunal and an ID before the Industrial Tribunal-cum-Additional Labour Court, Hyderabad, in I.D.No.204 of 1988.

Sri P.Kishore Rao, learned counsel for the first respondent, would fairly concede that these facts had not been pleaded by the first respondent in his claim petition filed before the Industrial

Tribunal-cum-Labour Court, Godavarikhani, in I.D.No.76 of 1995. Learned counsel would, however, contend that since, in addition to his disputing the correctness of the date of birth entered in the service records, the first respondent had also sought that he should be continued in service placing reliance on G.O.Ms.No.461 dated 23-07-1984 and G.O.Ms.No.484 dated 01-12-1987 which GOs were not the subject matter in issue in the earlier proceedings either before the Administrative Tribunal or before the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, the first respondent was not precluded from contending that he was entitled to continue in service till he reached the age of 60 years by virtue of these two GOs.

I am not inclined to examine the matter on merits since I am satisfied that the award in I.D.No.76 of 1995 dated 19-04-1997 is required to be quashed as having been obtained by suppression of facts by the first respondent-workman. While the contention of Sri P.Kishore Rao that the workman had placed reliance on two GOs to contend that work charge employees were entitled to continue in service till 60 years and that these two GOs were not the subject matter of the earlier proceedings may well be true, the fact remains that even in I.D.No.76 of 1995 the first respondent had sought for his continuance in service on the contention that the age as recorded in the service register was erroneous. This contention with regards an error in noting his correct date of birth in the service

records was the subject matter of R.P.No.473 of 1985 before the A.P. Administrative Tribunal and before the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, in I.D.No.204 of 1988. Whether relief could have been granted by the second respondent based on the two GOs, relied upon by the first respondent, does not necessitate examination since the first respondent had deliberately suppressed the fact of his having earlier filed an RP before the Administrative Tribunal and I.D.No.204 of 1988 before the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad. Neither can proceedings under the Industrial Disputes Act be permitted to be misused nor can orders obtained by suppression of facts be upheld. On this short ground the award in I.D.No.76 of 1995 dated 19-04-1997 is required to be set aside.

The Writ Petition is allowed and the award in I.D.No.76 of 1995 dated 19-04-1997 is quashed. While imposition of exemplary costs on the first respondent would be justified, taking note of the submission of Sri P.Kishore Rao, learned counsel for the first respondent, that the first respondent is a retired employee, there shall be no order as to costs.

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30th March, 2007

SKM